

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

THERMAL SCALPEL LLC,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 2:08-cv-312
	§	
v.	§	
	§	JURY TRIAL DEMANDED
COVIDIEN LTD. et al.,	§	
	§	
Defendants.	§	

THIRD JOINT MOTION TO STAY DEADLINES

Come now Plaintiff Thermal Scalpel LLC and Defendants Boston Scientific Corp. and Boston Scientific Scimed, Inc., (the “BSC parties”), and St. Jude Medical, Inc. and St. Jude Medical S.C. Inc. (“the St. Jude parties”),¹ and file this Third Joint Motion to Stay Deadlines:

In August, 2009, following mediations with Judge Faulkner of JAMS, Thermal Scalpel LLC, the BSC parties, and the St. Jude parties reached agreement on nearly all terms of potential settlements of this case. As a result, on October 9, 2009, the parties requested a 30-day stay of case deadlines, which the Court granted on October 13, 2009.

On November 11, 2009 the parties requested an additional two week extension to conclude the negotiation process, which the Court granted on November 12, 2009.

The parties have completed settlement negotiations and are in the process of exchanging signatures on the negotiated settlement agreements. The parties expect to file formal dismissals once the signature pages are signed and certain obligations related to the settlement agreements are performed. The parties believe that forty five (45) days will allow sufficient time to complete this process and file formal dismissals with the Court.

¹ Thermal Scalpel, the BSC parties, and the St. Jude parties are the only parties remaining in this case.

WHEREFORE, the parties respectfully request that the Court issue a further order staying all case deadlines for an additional forty five (45) days.

Dated: November 25, 2009.

Respectfully submitted,

/s/ Steven W. Hartsell
Edward R. Nelson, III
Texas State Bar No. 00797142
Barry J. Bumgardner
Texas State Bar No. 00793424
Brent N. Bumgardner
Texas State Bar No. 00795272
Steven W. Hartsell
Texas State Bar No. 24040199
NELSON BUMGARDNER CASTO, P.C.
5601 Bridge Street, Suite 300
Fort Worth, Texas 76112
(817) 377-9111
(817) 377-3485 (fax)
enelson@nbclaw.net
barry@nbclaw.net
bbumgardner@nbclaw.net
shartsell@nbclaw.net

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, TX 75606
(903) 757-8449
(903) 758-7397 (fax)
ema@emafirm.com

T. John Ward, Jr.
Texas State Bar No. 00794818
WARD & SMITH LAW FIRM
111 W. Tyler Street
Longview, Texas 75601
(903) 757-6400
(903) 757-2323 (fax)
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF
THERMAL SCALPEL LLC**

/s/ Thomas A. Brown (w/permission)
Melissa Richards Smith
GILLAM & SMITH, L.L.P
303 S. Washington Avenue
Marshall, TX 75670
Telephone: (903) 934-8450
Facsimile: (903) 934-9257

Thomas M. Melsheimer
melsheimer@fr.com
Texas Bar No. 13922550
FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
Telephone: (214) 747-5070
Facsimile: (214) 747-2091

Kurt L. Glitzenstein (pro hac vice)
Christopher W. Dillon (pro hac vice)
Thomas A. Brown (pro hac vice)
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, Massachusetts 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

**ATTORNEYS FOR BOSTON
SCIENTIFIC CORP. AND BOSTON
SCIENTIFIC SCIMED, INC.**

/s/ David L. Patterson (w/permission)
David L. Patterson
Texas State Bar Number 15587400
Attorney-in-Charge
William D. Cramer
Texas State Bar Number 00790527
DYKEMA GOSSETT PLLC
1717 Main Street, Suite 2400
Dallas, Texas 75201
214-462-6400
214-462-6401 (fax)
dpatterson@dykema.com
wcramer@dykema.com

**ATTORNEYS FOR ST. JUDE
MEDICAL, INC. and ST. JUDE
MEDICAL S.C., INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served on all counsel of record in this matter in compliance with Local Rule CV-5(a). As a result, this document was served upon all counsel who has consented to electronic service under Local Rule CV-5(a) (3) (A), on this 25th day of November, 2009.

/s/ Steven W. Hartsell
Steven W. Hartsell